



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

257, 259 and 291 Lake Shore Boulevard East, 2 Small Street and 200 Queens Quay East – Minutes of Settlement with Redpath Sugar Ltd.

Date: June 11, 2026

To: City Council

From: City Solicitor

Wards: Ward 10 - Spadina-Fort York

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

SUMMARY

Redpath Sugar Ltd. ("Redpath") operates a refining, processing, packaging, and storage of sugar and sugar-related products facility which, among other things includes the operation of an electrical co-generation system on the lands known municipally as 95 Queens Quay East (the "Redpath Facility").

There is a November, 2011 agreement (the "November 2011 Minutes") between the City, Redpath, and the Toronto Waterfront Revitalization Corporation (whose obligations have been assumed by the owner of 257-259 and 291 Lake Shore Boulevard East, 2 Small Street and 200 Queens Quay East ("Quayside Blocks 1 and 2")), which binds the parties to procedural and substantive obligations related to the assessment and mitigation of the Redpath Facility's environmental impacts on nearby sensitive uses.

The regulatory framework guiding the development of sensitive land uses in proximity to industrial uses has evolved since the November 2011 Minutes were executed. More particularly: the provincial noise guidelines in effect at the time the Minutes were executed, "Noise Assessment Criteria in Land Use Planning, Publication LU-131" ("LU-131") and "Sound Level Limits for Stationary Sources in Class 1 and 2 Areas (NPC-205)" ("NPC-205"), have been replaced with "Environmental Noise Guideline, Stationary and Transportation Sources - Approval and Planning (NPC-300)" ("NPC-300"). In addition, Ontario Regulation 1/17 - Registrations Under Part II.2 of The Act - Activities Requiring Assessment of Air Emissions, was made pursuant to the *Environmental Protection Act* ("O. Reg. 1/17") in 2017, and "Environmental Activity and

Sector Registry - Limits and Other Requirements, version 3" (the "EASR Publication") was released in 2021, and set out updated requirements related to odour emissions.

The City Solicitor requires instructions about potential modifications to the November 2011 Minutes. As the Quayside Blocks 1 and 2 development review process is ongoing, and the content of the November 2011 Minutes is relevant to the review, this matter is urgent and should not be deferred.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in Confidential Attachment 1 to this report from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1, along with the entirety of Confidential Appendix "A" and the entirety of Confidential Appendix "B" to this report from the City Solicitor, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to this report from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the Confidential Recommendations beyond what has already been approved in the current year's budget.

DECISION HISTORY

City Council adopted the Central Waterfront Secondary Plan (the "CWSP") as an amendment to the Official Plan of the former City of Toronto on April 16, 2003. On December 5, 6 and 7, 2005, City Council adopted the East Bayfront Precinct Plan and Class Environmental Assessment Master Plan:

<http://www.toronto.ca/legdocs/2005/agendas/council/cc051205/pof10rpt/cl002.pdf>

Zoning By-law amendment 1049-2006 for the East Bayfront - West Precinct area (the "East Bayfront Zoning By-law") was enacted by City Council on September 26, 2006:

<https://www.toronto.ca/legdocs/bylaws/2006/law1049.pdf>

The CWSP and East Bayfront Zoning By-law were appealed to the Ontario Municipal Board (the "OMB"), including by Tate and Lyle Ltd., then-owner of Redpath. At its meeting on October 24 and 25, 2011, City Council authorized the City Solicitor to execute Minutes of Settlement with Redpath, and to request that the OMB modify and

partially approve the CWSP and the East Bayfront Zoning By-law in order to resolve Redpath's appeals:

<https://secure.toronto.ca/council/agenda-item.do?item=2011.CC13.6>

On July 24 and 25, 2024, City Council adopted "257-259 and 291 Lake Shore Boulevard East, 2 Small Street and 200 Queens Quay East (Quayside Blocks 1 and 2) - Zoning By-law Amendment Application - Decision Report - Approval," to permit the development of the Quayside Blocks 1 and 2. The approved zoning by-law permitted 193,650 square metres of mixed-use development with up to 180,000 square metres of residential floor area, including 39,996 square metres of affordable rental housing (approximately 2,811 residential units, including 458 affordable rental units). The proposal included institutional, retail and community uses including a private child care facility and a central Privately-Owned Publicly Accessible Space:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.TE15.5>

On December 16 and 17, 2025, City Council adopted "257-259 and 291 Lake Shore Boulevard East, 2 Small Street and 200 Queens Quay East (Quayside Blocks 1 and 2) - Zoning By-law Amendment and Part Lot Control Exemption Application - Decision Report - Approval". This revised the 2024 approval to permit 202,878 square metres of mixed-use development with up to 197,396 square metres of residential floor area, including 45,645 square metres of affordable rental housing (approximately 2,850 residential units, including 553 affordable rental units). The proposal included institutional, retail and community uses including a private child-care facility and a central Privately-Owned Publicly Accessible Space:

<https://secure.toronto.ca/council/agenda-item.do?item=2025.TE27.5>

At its meeting on May 20 and 21, 2026 City Council classified 257, 259 and 291 Lake Shore Boulevard East, 2 Small Street, and 200 Queens Quay East as a Class 4 Noise Area pursuant to Ministry of Environment Environmental Noise Guideline - Stationary and Transportation Sources - Approval and Planning Publication NPC-300, August 2013:

<https://secure.toronto.ca/council/agenda-item.do?item=2026.TE32.15>

At its meeting on June 24, 25, and 26, 2026, City Council will consider "291 Lake Shore Boulevard East, 2 Small Street and 200 Queens Quay East (Quayside Blocks 1B, 1C and 2) - City-initiated Zoning By-law Amendments - Decision Report - Approval". The report recommends approval of a City-initiated Zoning By-law for the lands at 291 Lake Shore Boulevard East, 2 Small Street and 200 Queens Quay East to enable a new neighbourhood branch of the Toronto Public Library in Quayside. In addition, the report recommends an increase in elevator overrun permissions, and makes a technical correction to the amenity space provisions in Zoning By-law 1510-2025:

<https://secure.toronto.ca/council/agenda-item.do?item=2026.TE33.2>

COMMENTS

Redpath appealed the Central Waterfront Secondary Plan and the East Bayfront Zoning By-law in 2003 and 2006, respectively. Redpath's concerns were that, due to the noise, air emissions, vibration, odour, fugitive dust, and light emanating from the Redpath

Facility, the introduction of certain types of new development that did not then exist on lands in the vicinity of the Redpath Facility (including Quayside Blocks 1 and 2), may cause undue adverse impacts on Redpath's ability to comply with various regulatory approvals, guidelines and standards relative to its then-current and future operations. Redpath was also concerned that its then-current and future operations may adversely impact occupants and visitors to lands in the vicinity of the Redpath Facility, with respect to the existing and proposed uses of those lands.

In order to resolve Redpath's appeals, two things occurred: (a) Redpath, the City, and the Toronto Waterfront Revitalization Corporation entered into the November 2011 Minutes, which are attached to this Report as Public Attachment 1, and (b) the parties agreed to modifications to the Central Waterfront Secondary Plan and the East Bayfront Zoning By-law. The OMB approved the secondary plan and zoning by-law amendment with those modifications for portions of the Central Waterfront, including Quayside Blocks 1 and 2, in 2012.

Noise

In November 2011, the assessment and mitigation of environmental noise were determined in accordance with two Ministry of the Environment ("MOE") guidelines: LU-131 and NPC-205.

The November, 2011 Minutes documented three key items related to noise:

- Regulatory approach to noise: the Minutes documented the acceptance by the MOE (now the Ministry of Environment Conservation and Parks or "MECP") of a shift in policy in terms of noise regulation to be used in the East Bayfront context. The MOE was willing to utilize the more flexible approaches to noise attenuation set out in Guideline LU-131, which permitted design mitigation techniques at the receptor building, and to acknowledge that Redpath may rely on the MOE's revised policy approach in the future when applying for approval under the *Environmental Protection Act*.
- Commitment to mitigate at receptor buildings: the City and landowner committed to using an MOE-approved matrix of receptor building mitigation techniques ranging from the use of warning clauses in title documents to enclosed balconies or inoperable windows. The level of sound mitigation would vary with the degree of exceedance. Redpath, for its part, would accept the development of residential uses within Quayside. The Minutes, together with the zoning by-law, provided for the submission of expert studies dealing with noise and odour emissions, the review of same by Redpath and the incorporation of recommended design responses into the eventual site plan approvals and building permit drawings. The ability of Redpath to comment on both site plan approval and the presence of mitigation features on the building permit drawings was recognized.
- Role of MOE: The Minutes of Settlement also specified that development approvals by the City were to be consistent with MOE recommendations

concerning the methodology of measurements used in implementing the "matrix" and the technical specifications of chosen mitigation measures.

In 2013, the MOE released NPC-300, which replaced LU-131 and NPC-205. NPC-300 classifies noise sensitive receptors by area, and introduces the concept of a Class 4 area, to allow for residential infill and redevelopment in proximity to existing stationary sources of noise. A Class 4 area designation is intended to protect sensitive receptors from undue noise, while permitting existing noise sources to continue to operate in accordance with their environmental approvals.

Odour

In November 2011, odour emissions were also regulated differently than they are now. At that time, regulation was primarily complaint-based and facility-specific. The province relied on the general prohibition in the *Environmental Protection Act* against the discharge of any contaminant (including odour) that caused, or was likely to cause, an "adverse effect". An adverse effect included, among other things, loss of enjoyment of normal use of property, discomfort, or harm to the environment. The MOE used an evaluation benchmark of 1 odour unit (OU) at the closest property line or sensitive receptor. 1 OU represented a limit at which odour was no longer perceptible to the human sense of smell.

While the November 2011 Minutes addressed the issue of odour emissions, they did so with a light touch, reflective of the regulatory approach to odour at that time.

Under the current regulatory approach, air emissions include odour, and sugar manufacturing is prescribed as an activity requiring assessment of air emissions and permitting by the MECP. The current regulatory approach is, moreover, more proactive and standardized. To implement this approach, the MOE made O. Reg 1/17. Pursuant to this regulation, facilities must complete an Odour Screening Report prior to commencing operations, and high-risk sites must go through a targeted permitting process. The methodology for assessing odour is now regulated through a standardized odour report and panel testing, and does not rely on the unlegislated target benchmark of 1 OU. To this end, O. Reg 1/17 also incorporates by reference EASR Publication. The EASR Publication defines points of odour reception, the methodology for measuring the distance between an odour-emitting facility and points of odour reception, and includes required setback distances between emission sources and points of odour reception.

Approval of Sensitive Uses on Quayside Blocks 1 and 2

In 2024 and 2025, City Council approved the development of sensitive land uses on Quayside Blocks 1 and 2, in proximity to the Redpath Facility, subject to holding provisions. The holding provisions, among other matters, require the owner to submit noise and emissions studies and detailed design plans in support of a Site Plan Application for any sensitive land use, which demonstrate that appropriate noise and odour mitigation measures will be implemented. The holding provisions entitle Redpath to a copy of these materials, and the opportunity to peer review them and to provide comments to the City, all of which is in keeping with the November 2011 Minutes.

The review of the Quayside Blocks 1 and 2 applications to remove the holding provisions from the zoning by-law and for Site Plan Approval is ongoing. Through the review of these applications, required noise and odour mitigation measures to be implemented onsite will be identified and secured. The November 2011 Minutes, which are relevant to the review, do not, however, reflect the up-to-date regulatory framework for the assessment and mitigation of Redpath's noise and odour impacts on the approved sensitive uses, therefore the City Solicitor requires instructions about potential modifications to them.

This report contains advice or communications that are subject to solicitor-client privilege.

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 - Minutes of Settlement between Redpath Sugar Ltd., Toronto Waterfront Revitalization Corporation and City of Toronto, dated November 14, 2011
2. Confidential Attachment 1 - Confidential Information
3. Confidential Appendix "A" - Confidential Information
4. Confidential Appendix "B" - Confidential Information